IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

WEDNESDAY, THE 31ST OCTOBER 2007 / 9TH KARTHIKA 1929

MFA.No. 1223 of 2001(A)

O.P(MV).NO.303/1993 OF MOTOR ACCIDENT CLAIMS TRIBUNAL, NORTH PARAVUR.
.....

APPELLANT/ PETITIONER IN O.P:

KAIRUNNISSA, W/O. SHAHUL HAMEED, KADAPPURATH HOUSE, PUTHIYAKAVU.P.O., MATHILAKAM, THRISSUR DISTRICT.

BY ADV. SRI.M.A.ABDUL HAKHIM,
ADV. SMT.M.A.VAHEEDA BABU.

RESPONDENTS:
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1. **SATHEESAN, S/O. GOPALAN, POYYARA HOUSE, ATHMAVU, WEST VEMBALLOOR, SRINARAYANA PURAM. (DIED).**

2. **M.A. MOHAMMADALI, W/O. ABDULKHADAR, MATHILAKATH VEETIL, KANDAMKULAM.P.O., KODUNGALLOOR.**

3. **UNITED INDIA INSURANCE CO., NORTH PARAVUR BRANCH, NORTH PARAVUR.**

BY ADV. SMT.NARAYANIKUTTY CHETTOOR.

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 31/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. KOSHY & K.HEMA, JJ.

M.F.A.No. 1223 of 2001

Dated this the 31st day of October, 2007

Judgment

Koshy,J.

Appellant/Claimant, while driving in an ambassador taxi car, met with an accident by which he sustained personal injuries. She claimed compensation of Rs.2,40,000/-. The tribunal has awarded only Rs.31,000/- with 12% interest excluding the period when the case was dismissed for default till the case was restored. The claimant was an Arabic teacher in a Government school. Her monthly income was Rs.2,126/-. The tribunal found that the accident occurred due to the negligence of the first respondent driver of the offending vehicle insured by the third respondent insurance company. According to the appellant, he sustained the following injuries:

> "1. Nasal bleeding.
>
> 2. Contusion (R) eye.
>
> 3. 3 x 0.5 c.m. lacerated wound over upper eye lid (L).
>
> 4. Pain (R) side chest.
>
> 5. Pain (R) hip.
>
> 6. Cerebral concussion.
>
> 7. Breathing difficulty.

8. Chronic headache.

9. Extra-ocular muscular palsy of the right eye."

But, no disability certificate assessing percentage of disability was produced. However, it has come out in evidence that her job was not affected or her monthly income was not reduced due to the accident as she was a Government employee and was continuing in service. In the absence of assessment of permanent disability and reduction of salary due to the accident, we are of the view that Rs.31,000/- awarded with 12% interest is just and reasonable considering the nature of accident, treatment expenses etc. It is true that the case was dismissed for default and the case was restored thereafter. The tribunal correctly denied interest during that period when the case was not pending before the court as insurance company cannot be held responsible for paying interest for that period. We see no ground to interfere in the award. Appeal dismissed.

J.B.KOSHY
JUDGE

K. HEMA
JUDGE

vaa

J.B. KOSHY AND
K.HEMA,JJ.

M.F.A. No. 1223 of 2001

Judgment

Dated:31st October, 2007